

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

IN THE INTEREST OF: A.B.

**v.
JUVENILE OFFICER**

APPELLANT,

RESPONDENT.

DOCKET NUMBER WD77226

DATE: November 12, 2014

Appeal From:

Buchanan County Circuit Court
The Honorable Daniel F. Kellogg, Judge

Appellate Judges:

Division Three: Karen King Mitchell, Presiding Judge, Cynthia L. Martin, Judge and Gary D. Witt, Judge

Attorneys:

Anne V. Kiske, St. Joseph, MO, for appellant.

Summer A. Duke, St. Joseph, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

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Buchanan County

Before Division Three: Karen King Mitchell, Presiding Judge, Cynthia L. Martin, Judge and Gary D. Witt, Judge

Appellant A.B. appeals the judgment of the Circuit Court of Buchanan County, Juvenile Division, sustaining allegations that he committed the delinquent act of sexual molestation in the first degree pursuant to 566.067.1. In his sole point, A.B. argues that the trial court erred in finding sufficient evidence to establish beyond a reasonable doubt that he had the requisite mental state to commit the delinquent act. The requisite mental state requires evidence that A.B. took actions for the purpose of arousing or gratifying sexual desire of any person.

REVERSED

Division Three holds:

(1) The J.O. failed to meet its burden of proving all elements of the offense beyond a reasonable doubt because it presented no evidence specific to A.B. that he acted for the purpose of sexual arousal or gratification. The two acts in question lasted only a "few seconds," both children involved were young; neither child had an erection, ejaculated, or was physically aroused. It was therefore error for the trial court to infer intent where the J.O. presented no evidence as to the element of intent or evidence from which the intent could be reasonably inferred.

Opinion by Gary D. Witt, Judge

November 12, 2014

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